IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 402 OF 1991.

The State of Maharashtra. .... Appellant.

Versus.

Balu Krishna Patil
since deceased by his LRs.
1a) Waman Balu Patil,
1b) Chhagan Balu Patil.
1c) Harishchandra Balu Patil,
1d) Shantaram Balu Patil.
1e) Pithabai Balu Patil,
all residents of Walawali,
Post: Nawade, Taluka: Panvel,
Dist. Raigad.
1f) Dwarkabai Jaganath Pavanekar,
R/o.Kamothe, Post: Kamothe,
Tal.Panvel, Dist.Raigad.
1g) Kamalabai Vasant Patil,
R/o. Yerwali, Post: Vaje,
Taluka Panvel, Dist.Raigad.
1h) Gangubai Balu Patil,
R/o.Walawali, Post: Mawade,
Tal: Panvel, Dist.Raigad. .... Respondents.

Shri S.N.Gawade, A.G.P. for the Appellant.

None for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 18th March, 2006.

ORAL JUDGMENT.

1. Heard the learned A.G.P. for the Appellant.

None appears for the Respondents.

2. The challenge in this First Appeal is to the

Judgment and Award dated 4th January 1990 passed by the learned Civil Judge, Senior Division, Raigad at Alibag. By the said Judgment and Award, the Reference made under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act") at the instance of the original Respondent was partly allowed.

3. The subject matter of the Appeal is a plot of land situated at village Walvali, Taluka Panvel, District Raigad. Notification under section 4 of the said Act was issued on 3rd February 1970 by which the said land was notified for acquisition for the satellite city of New Bombay. The Land Acquisition Officer awarded compensation at the rate of Re.1/- per sq.meter. By the impugned Judgment and Award, the Reference Court has awarded market value at the rate of Rs.10/- per sq.meter. The Reference Court has also awarded other statutory benefits.

4. The learned A.G.P. appearing for the State submitted that the market value fixed by the Reference Court is on the higher side. He submitted that the land in question at the relevant was an agricultural land and therefore, deduction ought to have been made on account of development charges. He pointed out that the Reference Court has not made any deduction.

5. My attention has been invited to the decision of the learned Single Judge of this Court in First Appeal No.25 of 1993 delivered on 22nd April 2004. The said Judgment relates to acquisition of land from the same village Walvali, Taluka Panvel, District Raigad. The said land was also notified for acquisition under section 4 of the said Act dated 3rd/4th February 1970 for New Bombay Project. The land subject matter of the said appeal was located on the eastern side of Bombay-Pune Highway and also to east of Railway line of Central Railway joining Diva-Panvel-Apta Railway Line. The land involved in the said appeal was at a distance of 320 meters from Kalamboli Railway Station.

6. In the present case evidence of Jeevan Narayan Kulkarni, who is an expert valuer, discloses that the acquired land was to the north side of the extended municipal limit of Panvel Town. It is stated by the expert that the land is situated in close proximity of Bombay-Pune Highway.

7. In the aforesaid decision of this Court in the First Appeal No.25 of 1993, the learned Single Judge fixed the market value of the acquired land at Rs.15/- per sq.meter. After making deduction on account of

development charges, the compensation was awarded at the rate of Rs.14/- per sq.meter. In the present case the market value awarded is Rs.10/- per sq.meter. Thus it is impossible to say that the market value fixed by the impugned Judgment and Award is excessive.

8. There is no merit in the Appeal and the same is dismissed with no order as to costs.

Judge.